IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 44/2005
(Nemi Chand & Ors. Vs. State of Rajasthan & Anr.)

Date of Order : 19/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. P.R.Choudhary for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.
Mr. A.K.Rajvanshy for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 07.10.2004 passed by Additional Sessions Judge, No.2, Jodhpur (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 12.12.2003 passed by Judicial Magistrate No.5, Jodhpur (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by both the courts below.

On careful perusal of the orders passed by both the courts below, in my view, the trial court was justified in

dismissing the objection raised by the petitioner. By order dated 09.5.2002, the trial court took the cognizance of the offences and thereafter by an application raising certain objections, the order taking cognizance was sought to be recalled.

The Criminal Procedure Code does not contemplate power of review/ recalling of an order. This controversy has been concluded by two decisions of three Judge Bench of Hon'ble Supreme Court in Adalat Prasad Vs. Rooplal Jindal and Ors., JT 2004 (7) SC, 243 and in Subramanim Sethuraman Vs. State of Maharashtra and Anr., 2004 CRI.L.J. 4609.

In this view of the matter, no case for interference is made out. The petition is therefore, dismissed. Stay petition also stands dismissed. The record of the court below be returned forthwith. It will be open for the petitioners to raise all the contentions which have been raised in the instant petition before the trial court at the time of framing of the charge.

(H.R.PANWAR),J.

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